

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT RAMESES

Petitioner,

No. CIV S-04-1173 GEB GGH P

vs.

GARY LACEY, et al.,

Respondents.

ORDER

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By order filed on August 12, 2005, the court directed respondent to either file a motion to dismiss the petition for failure to exhaust state court remedies as to the sole claim pending in the original petition within 30 days. On September 7, 2005, petitioner filed an amended petition along with a request for an extension of time to file a memorandum of points and authorities. On September 8, 2005, respondent filed a response noting that as of August 10, 2005, petitioner's petition before the state supreme court was denied, and stating that the claim in the original petition was thereby exhausted, eliminating any basis for respondent either to file a motion to dismiss or a waiver on grounds of nonexhaustion.

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1 Accordingly, IT IS ORDERED that respondent's reply, filed on September 8,
2 2005, has discharged the court's order filed on August 12, 2005.

3 DATED: 9/13/05

/s/ Gregory G. Hollows

GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

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